

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

LIBERTARIAN PARTY OF NEW
HAMPSHIRE,

Plaintiff,

v.

Civil Case. No. 1:14-cv-00322-PB

WILLIAM M. GARDNER, Secretary of the
State of the State of New Hampshire,
in his official capacity,

Defendant

**REPUBLICAN NATIONAL COMMITTEE'S
PARTIALLY ASSENTED TO MOTION TO INTERVENE**

Pursuant to Rule 24(a) and (b) of the Federal Rules of Civil Procedure the Republican National Committee (the “RNC” or “proposed intervenor”) moves to intervene as of right, or, in the alternative, by permission of the Court. In further support hereof, the RNC states as follows:

1. The proposed intervenor is a political committee providing national leadership for the Republican Party. The Republican Party has qualified for access to the New Hampshire general election ballot for 2016. *See* RSA 652:11.

2. This lawsuit challenges a recent New Hampshire amendment to its election laws regarding ballot access by political organizations. The RNC proposes to intervene for the purpose of defending constitutionality of that amendment, N.H. Laws 2014, ch. 29:1 (amending RSA 655:40-a).

3. Rule 24 provides for intervention as of right and permissive intervention. *See* Fed. R. Civ. P. 24(a) and (b). Under Rule 24(a), “the court must permit anyone to intervene who” files a timely motion and claims an interest relating to the subject of the action, which interest

may be affected by the disposition of the action, unless existing parties adequately represent that interest.

4. The RNC's motion is timely. Trial is not scheduled until October of 2015. There are no looming deadlines which would be affected by the RNC's intervention. No parties will be prejudiced by the granting of the RNC's motion to intervene at this time.

5. The Republican party has qualified for access to the New Hampshire general election ballot in 2016. Accordingly, it has a vital interest in New Hampshire's election regulation in general and, specifically, the requirements for ballot access.

6. The defendant is the state officer charged with regulating elections. As such, the RNC's interests are distinct from his. Therefore, the defendant cannot adequately represent the RNC's interests in this litigation.

7. For the foregoing reasons, and for the reasons set forth in the accompanying memorandum of law, the Court should grant the RNC's motion to intervene as a matter of right.

8. In the alternative, the RNC moves for permissive intervention. Under Rule 24(b), a Court may permit any party to intervene who submits a timely motion and who "has a claim or defense that shares with the main action a common question of law or fact." *Id.*

9. As described in ¶ 4, *supra*, the instant motion is timely.

10. The RNC has a claim which shares common questions of law with the main action. To wit: the RNC represents a political party which will be affected by the implementation of the 2014 amendment to RSA 655:40-a. As an active participant in the electoral process in New Hampshire, as well as nationally, the RNC is uniquely positioned to assist the Court in its evaluation of the asserted burdens in this case. That perspective necessarily differs from that of the defendant.

11. Pursuant to Fed. R. Civ. P. 24(c), the proposed intervenor is filing an Answer to the plaintiff's Complaint contemporaneously with this Motion.

12. Pursuant to LR 7.1(a)(2), the proposed intervenor hereby submits a memorandum of law in support of this motion.

13. Pursuant to LR 7.1(c), the defendant, William Garner assents to the relief requested herein. Undersigned counsel has contacted the plaintiff, Libertarian Party of New Hampshire, seeking assent, but has not received a response as of filing.

WHEREFORE, the Republican National Committee respectfully requests that this Court:

- A. Grant its motion to intervene as a matter of right;
- B. Or, in the alternative, grant its motion to intervene permissively; and
- C. Grant such other relief as the Court deems just and appropriate.

Respectfully submitted,

THE REPUBLICAN NATIONAL COMMITTEE

By its Attorneys,

NIXON PEABODY LLP

Dated: March 20, 2015

/s/ Brian D. Duffy
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 20th day of March, 2015, I caused a true and correct copy of the foregoing to be filed with the Court's Electronic Case Filing System, which will then send a notification of electronic filing to counsel of record.

/s/ Brian D. Duffy

Brian D. Duffy